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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 BARRY LAMON,

No. CIV S-03-0423-FCD-CMK-P

12 Plaintiff,

13 vs.

FINDINGS AND RECOMMENDATIONS

14 LYTLE, et al.,

15 Defendants.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant
18 to 42 U.S.C. § 1983. Pending before the court is plaintiff's motion for injunctive relief (Doc.
19 254). Defendants have filed a response (Doc. 257).

20 Plaintiff, who at the time the motion was filed was housed at California State
21 Prison – Sacramento ("CSP-Sac."), was transferred to that prison from California State Prison –
22 Corcoran ("CSP-Corcoran") in order to attend court proceedings in this matter. He now seeks an
23 order directing prison officials to transfer him back to CSP-Corcoran "to await a final
24 determination of when trial will begin in this matter" and that he not be returned to CSP-Sac.
25 "more than ten (10) days prior to an established trial date or retained at [CSP-Sac.] for more than
26 seven (7) days following the completion of trial proceedings in this matter." He states that non-

1 party correctional officers at CSP-Sac. have acted “in concert with Defendants Lytle, Murphy,
2 Lored, Scicluna” to “taint my meals with chemical agents that cause me chronic severe liver,
3 kidneys, intestinal, stomach, and head pain and mental trauma.”

4 In their response, defendants note that plaintiff was transferred to CSP-Corcoran
5 on October 29, 2008. This is confirmed by a notice of change of address filed by plaintiff on
6 October 30, 2008. To the extent plaintiff’s motion relates to the alleged conduct of prison staff at
7 CSP-Sac., the motion is mooted by plaintiff’s transfer to CSP-Corcoran. See Prieser v. Newkirk,
8 422 U.S. 395, 402-03 (1975); Johnson v. Moore, 948 F.3d 517, 519 (9th Cir. 1991) (per curiam).
9 To the extent plaintiff seeks an order regarding any transfer back to CSP-Sac. at some unknown
10 date in the future, plaintiff cannot establish that he is currently facing imminent threat of
11 irreparable harm. See Oakland Tribune, Inc. v. Chronicle Publ’g Co., 762 F.2d 1374, 1376 (9th
12 Cir. 1985).

13 Based on the foregoing, the undersigned recommends that plaintiff’s motion for
14 injunctive relief (Doc. 254) be denied.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 20 days
17 after being served with these findings and recommendations, any party may file written
18 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
19 Findings and Recommendations.” Failure to file objections within the specified time may waive
20 the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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22 DATED: December 3, 2008

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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